

HOUSE BILL NO. 666

INTRODUCED BY W. STAHL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAXATION; ESTABLISHING A PROPERTY TAX CIRCUIT BREAKER INCOME TAX CREDIT BASED UPON A PROPERTY TAXPAYER'S INCOME AND PROPERTY TAXES PAID; PROVIDING AN INCREASED INCOME TAX CREDIT FOR ELDERLY PROPERTY TAXPAYERS WITH CERTAIN INCOME QUALIFICATIONS; PROVIDING AN INCREASED PROPERTY TAX INCOME TAX CREDIT FOR LOW-INCOME TAXPAYERS; CHANGING THE RATE OF TAXATION FOR CLASS FOUR PROPERTY; INCREASING THE QUALIFICATIONS FOR ELIGIBILITY FOR THE EXTENDED PROPERTY TAX ASSISTANCE PROGRAM; PHASING OUT THE EXEMPTION FACTORS FOR CLASS FOUR RESIDENTIAL AND CLASS FOUR COMMERCIAL PROPERTY; REQUIRING CYCLICAL REAPPRAISAL ON CLASS THREE, FOUR, AND TEN PROPERTIES DONE ON A 4-YEAR CYCLE; ELIMINATING THE LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM AND REPEALING THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY; INCREASING THE AMOUNT OF ANNUAL GROSS INCOME NECESSARY TO QUALIFY LAND FOR VALUATION AS AGRICULTURAL; REQUIRING THE DEPARTMENT TO REPORT TO THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE ON SALES ASSESSMENT RATIOS TO MONITOR TRENDS IN PROPERTY VALUATION; REVISING THE METHOD FOR VALUING AGRICULTURAL PROPERTY BY INCREASING WATER LABOR COSTS FOR IRRIGATED LAND AND CLARIFYING THAT SPRING WHEAT FROM SUMMER FALLOW FARMLAND IS THE BASE CROP FOR NONIRRIGATED LAND; ESTABLISHING A FOREST LANDS TAXATION ADVISORY COMMITTEE TO ADVISE THE DEPARTMENT OF REVENUE IN ITS DETERMINATION OF THE VALUE OF FOREST LANDS; PROVIDING FOR THE APPOINTMENT AND TERMS OF THE MEMBERS OF THE COMMITTEE; AMENDING SECTIONS 2-15-122, 5-2-301, 15-6-134, 15-6-193, 15-6-222, 15-7-111, 15-7-201, 15-7-202, 15-10-420, 15-16-102, 15-44-103, 47-1-111, 53-4-1103, AND 53-6-1001, MCA; REPEALING SECTIONS 15-6-191, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, AND 15-30-179, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Property tax circuit breaker -- income tax credit for property taxes. (1)**

1 There is a credit against the taxes imposed by this chapter for a portion of property taxes paid by a person as
2 provided in this section.

3 (2) The amount of the credit is determined as provided in subsection (4). Only one claim for a credit may
4 be made with respect to any property.

5 (3) The amount of the credit may not exceed the claimant's liability under this chapter.

6 (4) (a) The basic credit authorized under this section is the amount by which a claimant's property tax
7 billed or rent-equivalent tax paid exceeds 3% of the claimant's total household income, not to exceed \$1,000, for
8 all claimants with a household income of \$50,000 or less.

9 (b) If a claimant qualifies for a basic credit, in lieu of the basic credit, a qualified claimant may be allowed
10 one of the following:

11 (i) If the claimant is 65 year of age or older and has a total household income that is less than 66% of
12 the median amount of the household income of Montana residents, the claimant is entitled to 150% of the basic
13 credit.

14 (ii) If the claimant has a household income that is less than 33% of the median of the total household
15 income of Montana residents, the claimant is entitled to 125% of the basic credit.

16 (5) For the purposes of this section, the following definitions apply:

17 (a) "Gross household income" means all income received by all individuals of a household while they
18 are members of the household.

19 (b) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the
20 renter or lessee for the right of occupancy of the qualified residence pursuant to an arm's-length transaction with
21 the landlord.

22 (c) (i) "Household" means an association of persons who live in the same dwelling, sharing its
23 furnishings, facilities, accommodations, and expenses.

24 (ii) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

25 (d) "Household income" means the amount obtained by subtracting \$6,300 from gross household
26 income.

27 (e) (i) "Income" means, except as provided in subsection (5)(e)(ii), federal adjusted gross income, without
28 regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable
29 income, including but not limited to:

30 (A) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'

1 disability benefits;

2 (B) the amount of capital gains excluded from adjusted gross income;

3 (C) alimony;

4 (D) support money;

5 (E) nontaxable strike benefits;

6 (F) cash public assistance and relief;

7 (G) interest on federal, state, county, and municipal bonds; and

8 (H) all payments received under federal social security except social security income paid directly to a
9 nursing home.

10 (ii) For the purposes of this subsection (5)(e), income is reduced by the taxpayer's basis.

11 (f) "Property tax billed" means taxes levied against the qualified residence, including special
12 assessments and fees but excluding penalties or interest during the claim period.

13 (g) "Qualified residence" means any class four residential dwelling that is a single-family dwelling unit,
14 unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land,
15 not exceeding 1 acre, as is reasonably necessary for its use as a dwelling actually occupied by itself or in
16 combination with one other similar residential dwelling for at least 7 months a year.

17 (h) "Rent-equivalent tax paid" means 15% of the gross rent.

18 (i) "Total household income" is the sum of the income of all members of the household and all other
19 persons who are owners of the property. A household is an association of persons who live in the same dwelling,
20 sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total
21 household income does not include the income of the tenant.

22
23 **Section 2.** Section 2-15-122, MCA, is amended to read:

24 **"2-15-122. Creation of advisory councils.** (1) (a) A department head or the governor may create
25 advisory councils.

26 (b) An agency or an official of the executive branch of state government other than a department head
27 or the governor, including the superintendents of the state's institutions and the presidents of the units of the
28 state's university system, may also create advisory councils but only if federal law or regulation requires that the
29 official or agency create the advisory council as a condition to the receipt of federal funds.

30 (c) The board of public education, the board of regents of higher education, the state board of education,

1 the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may
2 create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating
3 authority shall file a record of each council created by it in the office of the governor and the office of the secretary
4 of state in accordance with subsection (9).

5 (2) Each advisory council created under this section must be known as the ".... advisory council".

6 (3) The creating authority shall:

7 (a) prescribe the composition and advisory functions of each advisory council created;

8 (b) appoint its members, who shall serve at the pleasure of the creating authority; and

9 (c) specify a date when the existence of each advisory council ends.

10 (4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined
11 in 2-15-102.

12 (5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of
13 any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the
14 department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in
15 the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through
16 2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for
17 inflation annually using the formula provided in ~~15-6-134(2)(b)(ii) and (2)(b)(iii), except that the base income level~~
18 ~~and appropriate dollar amount must be \$50 a day~~ subsection (11).

19 (b) Members who are full-time salaried officers or employees of this state or of any political subdivision
20 of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed
21 for travel expenses, as provided for in 2-18-501 through 2-18-503.

22 (6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory
23 council shall elect a presiding officer and other officers that it considers necessary.

24 (7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually
25 and shall also meet on the call of the creating authority or the governor and may meet at other times on the call
26 of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena
27 without the express prior authorization of the creating authority.

28 (8) A majority of the membership of an advisory council constitutes a quorum to do business.

29 (9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a
30 department head or any other official without the approval of the governor. In order for the creation or approval

of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

- (a) the council's name, in accordance with subsection (2);
- (b) the council's composition;
- (c) the appointed members, including names and addresses;
- (d) the council's purpose; and
- (e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

(11) (a) The income levels contained in subsection (5) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying \$50 by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

Section 3. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a

legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is calculated pursuant to ~~15-6-134~~ subsection (8), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) (a) The income levels contained in subsection (4) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

Section 4. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) subject to 15-6-222 and subsections ~~(1)(f)~~ (1)(e) and ~~(1)(g)~~ (1)(f) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-222 and subsections ~~(1)(f)~~ (1)(e) and ~~(1)(g)~~ (1)(e) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

~~(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.~~

~~(d)~~(c) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

~~(e)~~(d) subject to 15-6-222(1), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

~~(f)~~(e) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

~~(g)~~(f) (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, property described in subsections (1)(a), (1)(b), and ~~(1)(e)~~ (1)(d) through ~~(1)(g)~~ (1)(f) of this section is taxed at:

~~(i) 3.22% of its taxable market value in tax year 2005;~~

~~(ii) 3.14% of its taxable market value in tax year 2006;~~

~~_____ (iii) 3.07% of its taxable market value in tax year 2007; and~~

~~_____ (iv) 3.01% 3% of its taxable market value in tax years after 2007.~~

~~(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on income and determined from the following table:~~

| Income | Income | Percentage |
|-------------------------------|--------------------------------|-----------------------|
| Single Person | Married Couple | Multiplier |
| Head of Household | | |
| \$0 - \$ 6,000 | \$0 - \$8,000 | 20% |
| \$6,001 - \$9,200 | \$8,001 - \$14,000 | 50% |
| \$9,201 - \$15,000 | \$14,001 - \$20,000 | 70% |

~~(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:~~

~~(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and~~

~~(B) rounding the product thus obtained to the nearest whole dollar amount.~~

~~(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.~~

~~(c)(b) Property described in subsection (1)(d) (1)(c) is taxed at one-half the taxable percentage rate established in subsection (2)(a).~~

(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

Section 5. Section 15-6-193, MCA, is amended to read:

"15-6-193. Extended property tax assistance -- phasein. (1) For the purpose of mitigating extraordinary market value increases during revaluation cycles ~~that begin after December 31, 2008~~, the rate of taxation of class four residential dwellings and appurtenant land not to exceed ~~5 acres~~ 1 acre otherwise set in 15-6-134(2)(a) is adjusted in this section for properties with extraordinary increases in market value with owners

1 that meet income requirements.

2 (2) An annual application on a form provided by the department is required to receive a tax rate
3 adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted
4 only for the current tax year and may not be granted for a previous year.

5 (3) A rate adjustment may not be granted for:

6 (a) any property that was sold or for which the ownership was changed after December 31 of the last
7 year of the previous revaluation cycle unless the change in ownership is between husband and wife or parent
8 and child with only nominal actual consideration or the change is pursuant to a divorce decree;

9 (b) the value of new construction, including remodeling, on the property occurring after December 31
10 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements;
11 or

12 (c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that
13 increases the market value of the land by more than 25%.

14 (4) For the purposes of determining the adjustment in the class four property tax rate in this section, the
15 following provisions apply for revaluation cycles ~~beginning after December 31, 2008~~:

16 (a) (i) The percentage increase in taxable value is measured as the percentage change in taxable value
17 before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by
18 multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before
19 reappraisal times the tax rate before reappraisal. The taxable value after reappraisal is calculated by multiplying
20 the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times
21 the tax rate after reappraisal.

22 (ii) The tax rate before reappraisal is the tax rate that was in effect during the last year of the previous
23 reappraisal cycle.

24 (iii) The tax rate after reappraisal is the tax rate that will be in effect during the last year of the current
25 reappraisal cycle.

26 (iv) The homestead exemption before reappraisal is the homestead exemption that was in effect during
27 the last year of the previous reappraisal cycle.

28 (v) The homestead exemption after reappraisal is the homestead exemption that will be in effect during
29 the last year of the current reappraisal cycle.

30 (b) The dollar increase in tax liability is measured as the percentage change in tax liability before

reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal times the mill levy applied to the property before reappraisal. The tax liability after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal times the mill levy applied to the property before reappraisal. The mill levy applied to the property before reappraisal is the total of all mills applied to the property in the last year of the previous reappraisal cycle.

(c) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(d) The phase-in value is the valuation change made pursuant to 15-7-111~~(3)~~(5) since the last reappraisal.

(5) (a) If total household income is ~~\$25,000~~ \$28,500 or less, the percentage increase in taxable value is greater than ~~24%~~ 55%, and the dollar increase in taxable liability is ~~\$250~~ \$285 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated ~~such~~ so that the total increase in taxable value over the reappraisal cycle is ~~24%~~ 55% and ~~such~~ so that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(b) If total household income is greater than ~~\$25,000~~ \$28,500 but less than or equal to ~~\$50,000~~ \$57,000, the percentage increase in taxable value is greater than ~~30%~~ 60%, and the dollar increase in taxable liability is ~~\$250~~ \$285 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated ~~such~~ so that the total increase in taxable value over the reappraisal cycle is ~~30%~~ 60% and ~~such~~ so that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(c) If total household income is greater than ~~\$50,000~~ \$57,000 but less than or equal to ~~\$75,000~~ \$85,500, the percentage increase in taxable value is greater than ~~30%~~ 60%, and the dollar increase in taxable liability is

~~\$250~~ \$285 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate will be calculated ~~such so~~ that the total increase in taxable value over the reappraisal cycle is ~~36%~~ 70% and ~~such so~~ that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of 1%.

(6) A person who applies for a tax rate adjustment under this section shall provide the department with documentation of total household income and other information that the department considers necessary to determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

(7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax rate adjustment is guilty of false swearing under 45-7-202.

(8) For the purposes of this section, "entity" means:

(a) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

(b) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person."

Section 6. Section 15-6-222, MCA, is amended to read:

"15-6-222. Residential and commercial improvements -- percentage of value exempt. (1) The following percentage of the market value of residential property described in 15-6-134~~(1)(e)~~ (1)(d) and ~~(1)(f)~~ (1)(e) is exempt from property taxation:

(a) ~~32%~~ 34% for tax year ~~2005~~ 2009;

(b) ~~32.6%~~ 30% for tax year ~~2006~~ 2010;

(c) ~~33.2%~~ 20% for tax year ~~2007~~ 2011;

(d) ~~34%~~ 10% for tax year ~~2008~~ 2012 and succeeding tax years.

(2) The following percentage of the market value of commercial property described in 15-6-134~~(1)(g)~~ (1)(f) is exempt from property taxation:

(a) ~~43.8%~~ 24% for tax year ~~2005~~ 2009;

(b) ~~44.2%~~ 18% for tax year ~~2006~~ 2010;

(c) ~~44.6%~~ 12% for tax year ~~2007~~ 2011;

(d) ~~45%~~ 6% for tax year ~~2008~~ 2012 and succeeding tax years."

1 **Section 7.** Section 15-7-111, MCA, is amended to read:

2 **"15-7-111. Periodic revaluation of certain taxable property.** (1) The department shall administer and
3 supervise a program for the revaluation of all taxable property within classes three, four, and ten. All other
4 property must be revalued annually.

5 (2) The department shall value and phase in the value of newly constructed, remodeled, or reclassified
6 property in a manner consistent with the valuation within the same class and the values established pursuant to
7 subsection (1). The department shall adopt rules for determining the assessed valuation and phased-in value of
8 new, remodeled, or reclassified property within the same class.

9 (3) The revaluation of class three, four, and ten property is complete on December 31, 2008. The amount
10 of the change in valuation from the 2002 base year for each property in classes three, four, and ten must be
11 phased in each year at the rate of 25% of the change in valuation.

12 (4) The department shall provide the revenue and transportation interim committee, during the end of
13 the second year of each revaluation cycle, a sales assessment ratio study of residences to be used to allow the
14 committee to be apprised of the housing market and value trends.

15 ~~(3)~~(5) The department of revenue shall administer and supervise a program for the revaluation of all
16 taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be
17 promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten
18 property in each county is revalued by January 1, ~~2009~~ 2013, effective for January 1, ~~2009~~ 2013, and each
19 succeeding ~~6~~ 4 years. The resulting valuation changes must be phased in for each year until the next reappraisal.
20 If a percentage of change for each year is not established, then the percentage of phasein for each year is
21 ~~16.66%~~ 25%."

22
23 **Section 8.** Section 15-7-201, MCA, is amended to read:

24 **"15-7-201. Legislative intent -- value of agricultural property.** (1) Because the market value of many
25 agricultural properties is based upon speculative purchases that do not reflect the productive capability of
26 agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a
27 value that is exclusive of values attributed to urban influences or speculative purposes.

28 (2) Agricultural land must be classified according to its use, which classifications include but are not
29 limited to irrigated use, nonirrigated use, and grazing use.

30 (3) Within each class, land must be subclassified by production categories. Production categories are

determined from the productive capacity of the land based on yield.

(4) In computing the agricultural land valuation schedules to take effect on the date when each revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine the productive capacity value of all agricultural lands using the formula $V = I/R$ where:

(a) V is the per-acre productive capacity value of agricultural land in each land use and production category;

(b) I is the per-acre net income of agricultural land in each land use and production category and is to be determined as provided in subsection (5); and

(c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the department adopts the recommended capitalization rate by rule, is equal to 6.4%. This capitalization rate must remain in effect until the next revaluation cycle.

(5) (a) Net income must be determined separately in each land use based on production categories.

(b) Net income must be based on commodity price data, which may include grazing fees, crop and livestock share arrangements, cost of production data, and water cost data for the base period using the best available data.

(i) Commodity price data and cost of production data for the base period must be obtained from the Montana Agricultural Statistics, the Montana crop and livestock reporting service, and other sources of publicly available information if considered appropriate by the advisory committee.

(ii) Crop share and livestock share arrangements are based on typical agricultural business practices and average landowner costs.

(iii) Allowable water costs consist only of the per-acre labor costs, energy costs of irrigation, and, unless the advisory committee recommends otherwise and the department adopts the recommended cost by rule, a base water cost of ~~\$5.50~~ \$15 for each acre of irrigated land. Total allowable water costs may not exceed \$40 for each acre of irrigated land. Labor and energy costs must be determined as follows:

(A) Labor costs are ~~zero~~ \$5 an acre for pivot sprinkler irrigation systems, ~~\$4.50~~ \$10 an acre for tow lines, side roll, and lateral sprinkler irrigation systems, and ~~\$9~~ \$15 an acre for hand-moved and flood irrigation systems.

(B) Energy costs must be based on per-acre energy costs incurred in the energy cost base year, which is the calendar year immediately preceding the year specified by the department in 15-7-103(5). By July 1 of the year following the energy cost base year, an owner of irrigated land shall provide the department, on a form prescribed by the department, with energy costs incurred in that energy cost base year. In the event that no

energy costs were incurred in the energy cost base year, the owner of irrigated land shall provide the department with energy costs from the most recent year available. The department shall adjust the most recent year's energy costs to reflect costs in the energy cost base year.

(c) The base crop for valuation of irrigated land is alfalfa hay, adjusted to 80% of sales price, and the base crop for valuation of nonirrigated land is spring wheat from summer fallow farmland. The base unit for valuation of grazing lands is animal unit months (AUM), defined as the average monthly requirement of pasture forage to support a 1,000-pound cow with a calf or its equivalent.

(d) Unless the advisory committee recommends a different base period and the department adopts the recommended base period by rule, the base period used to determine net income must be the most recent 7 years for which data is available prior to the date the revaluation cycle ends. Unless the advisory committee recommends a different averaging method and the department adopts the recommended averaging method by rule, data referred to in subsection (5)(b) must be averaged, but the average must exclude the lowest and highest yearly data in the period.

(6) The department shall compile data and develop valuation manuals adopted by rule to implement the valuation method established by subsections (4) and (5).

(7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and agricultural economics. The advisory committee shall include one member of the Montana state university-Bozeman, college of agriculture, staff. The advisory committee shall:

(a) compile and review data required by subsections (4) and (5);

(b) recommend to the department any adjustments to data or to landowners' share percentages if required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

(c) recommend appropriate base periods and averaging methods to the department;

(d) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;

(e) verify for each class of land that the income determined in subsection (5) reasonably approximates that which the average Montana farmer or rancher could have attained; and

(f) recommend agricultural land valuation schedules to the department. With respect to irrigated land, the recommended value of irrigated land may not be below the value that the land would have if it were not irrigated."

Section 9. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) (a) Contiguous parcels of land totaling

160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land if:

(A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than ~~\$1,500~~ \$2,960 in annual gross income from the raising of agricultural products produced by the land; or

(B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) Parcels of land of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

(A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and

(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership,

sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than ~~\$1,500~~ \$2,960 in annual gross income from the raising of agricultural products as defined in 15-1-101;

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice; or

(c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have not been further divided.

(3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to ~~\$1,500~~ \$2,960 in annual gross income as determined by the Montana state university-Bozeman department of agricultural economics and

1 economics.

2 (4) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified
3 or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in
4 compliance with the Montana Subdivision and Platting Act.

5 (5) Land may not be classified or valued as agricultural land or nonqualified agricultural land if it has
6 stated covenants or other restrictions that effectively prohibit its use for agricultural purposes.

7 (6) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide
8 agricultural enterprise is not considered a bona fide agricultural operation.

9 (7) The department may not classify land less than 160 acres as agricultural unless the owner has
10 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which
11 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed
12 as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must
13 continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A
14 reclassification does not mean revaluation pursuant to 15-7-111.

15 (8) For the purposes of this part, growing timber is not an agricultural use.

16 (9) By November 1 of each year, the department shall multiply the gross annual income amount
17 contained in subsections (1)(b)(i)(A), (2)(a), and (3) by the inflation factor defined in 15-30-101, but using the
18 consumer price index for June 2009, for the year and round the amount to the nearest \$10. The resulting gross
19 annual income amount is effective for the next property tax year and must be used as the basis for determining
20 eligibility of land for valuation as agricultural.

21
22 **Section 10.** Section 15-10-420, MCA, is amended to read:

23 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
24 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
25 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
26 years. The maximum number of mills that a governmental entity may impose is established by calculating the
27 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
28 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
29 one-half of the average rate of inflation for the prior 3 years.

30 (b) A governmental entity that does not impose the maximum number of mills authorized under

1 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
2 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
3 carried forward may be imposed in a subsequent tax year.

4 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
5 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
6 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

7 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
8 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
9 taxable property.

10 (3) (a) For purposes of this section, newly taxable property includes:

11 (i) annexation of real property and improvements into a taxing unit;

12 (ii) construction, expansion, or remodeling of improvements;

13 (iii) transfer of property into a taxing unit;

14 (iv) subdivision of real property; and

15 (v) transfer of property from tax-exempt to taxable status.

16 (b) Newly taxable property does not include an increase in value that arises because of an increase in
17 the incremental value within a tax increment financing district.

18 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
19 release of taxable value from the incremental taxable value of a tax increment financing district because of:

20 (i) a change in the boundary of a tax increment financing district;

21 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

22 (iii) the termination of a tax increment financing district.

23 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
24 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
25 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
26 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

27 (c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
28 property that results in the property being taxable as class four property or as nonqualified agricultural land as
29 described in 15-6-133(1)(c).

30 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

1 (a) school district levies established in Title 20; or

2 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits
3 excluded under 2-9-212 or 2-18-703.

4 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
5 under 15-6-131 and 15-6-132.

6 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
7 increase the number of mills to account for a decrease in reimbursements.

8 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
9 of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated
10 by the department may not exceed the mill levy limits established in those sections. The mill calculation must be
11 established in whole mills. ~~If the mill levy calculation does not result in a whole number of mills, then the~~
12 ~~calculation must be rounded up to the nearest whole~~ one-hundredth of a mill.

13 (9) (a) The provisions of subsection (1) do not prevent or restrict:

14 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

15 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

16 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326; or

17 (iv) a levy for the support of a study commission under 7-3-184.

18 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
19 actually assessed in a subsequent year.

20 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
21 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
22 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
23 funds by a county or municipality during that time.

24 (11) The department may adopt rules to implement this section. The rules may include a method for
25 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
26 improvements, or newly taxable property in a governmental unit."

27
28 **Section 11.** Section 15-16-102, MCA, is amended to read:

29 **"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or canceled under the
30 provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana,

except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) ~~(a)~~ If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

~~(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.~~

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided

1 in 76-3-207."

2
3 **Section 12.** Section 15-44-103, MCA, is amended to read:

4 **"15-44-103. Legislative intent -- value of forest lands -- valuation zones.** (1) In order to encourage
5 landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest
6 practices, and to encourage the investment of capital in reforestation, forest lands must be classified and
7 assessed under the provisions of this section.

8 (2) The forest productivity value of forest land must be determined by:

9 (a) capitalizing the value of the mean annual net wood production at the culmination of mean annual
10 increment plus other agriculture-related income, if any; less

11 (b) annualized expenses, including but not limited to the establishment, protection, maintenance,
12 improvement, and management of the crop over the rotation period.

13 (3) To determine the forest productivity value of forest lands, the department shall:

14 (a) divide the state into appropriate forest valuation zones, with each zone designated so as to recognize
15 the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors
16 of that zone; and

17 (b) establish a uniform system of forest land classification that takes into consideration the productive
18 capacity of the site to grow forest products and furnish other associated agricultural uses.

19 (4) In computing the forest land valuation schedules for each forest valuation zone to take effect on
20 January 1, 1994, the department shall determine the productive capacity value of all forest lands in each forest
21 valuation zone using the formula $V = I/R$, where:

22 (a) V is the per-acre forest productivity value of the forest land;

23 (b) I is the per-acre net income of forest lands in each valuation zone and is determined by the
24 department using the formula $I = (M \times SV) + AI - C$, where:

25 (i) I is the per-acre net income;

26 (ii) M is the mean annual net wood production;

27 (iii) SV is the stumpage value;

28 (iv) AI is the per-acre agriculture-related income; and

29 (v) C is the per-unit cost of the forest product and agricultural product produced, if any; and

30 (c) R is the capitalization rate determined by the department as provided in subsection (6).

1 (5) Net income must:

2 (a) be calculated for each year of a base period, which is the most recent 5-year period for which data
3 is available;

4 (b) be based on a rolling average of stumpage value of timber harvested within the forest valuation zone
5 and on the associated production cost data for the base period from sources considered appropriate by the
6 department; and

7 (c) include agriculture-related net income for the same time period as the period used to determine
8 average stumpage values.

9 (6) The capitalization rate must be calculated for each year of the base period and is the annual average
10 interest rate on agricultural loans as reported by the Northwest farm credit services, agricultural credit association
11 of Spokane, Washington, plus the effective tax rate.

12 (7) The effective tax rate must be calculated for each year of the base period by dividing the total
13 estimated tax due on forest lands subject to the provisions of this section by the total forest value of those lands.

14 (8) For the purposes of this section, if forest service sales are used in the determination of stumpage
15 values, the department shall take into account purchaser road credits.

16 (9) In determining the forest productivity value of forest lands and in computing the forest land valuation
17 schedules, the department shall use information and data provided by the university of Montana-Missoula.

18 (10) (a) There is a forest lands taxation advisory committee, consisting of:

19 (i) four members with expertise in forest matters, with one appointed by the majority leader of the senate,
20 one appointed by the minority leader of the senate, one appointed by the majority leader of the house of
21 representatives, and one appointed by the minority leader of the house of representatives; and

22 (ii) three members appointed by the governor, one of whom is an industrial forest landowner, one of
23 whom is a nonindustrial forest landowner, and one of whom is a county commissioner.

24 (b) The terms of the members expire on December 31 of each even-numbered year.

25 (c) The advisory committee shall:

26 (i) review data required by subsections (2) through (4), (8), and (9), including data on productivity value,
27 stumpage value, wood production, net income, and agriculture-related income;

28 (ii) recommend to the department any adjustments to data if required by changes in government forest
29 land programs, market conditions, or prevailing forest lands practices;

30 (iii) recommend appropriate base periods and averaging methods to the department;

(iv) verify for each forest valuation zone and forest land classification under subsection (3) that the income determined in subsection (5) reasonably approximates the income that the average Montana forest landowner could have attained; and

(v) recommend forest land valuation schedules to the department."

Section 13. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility -- determination of indigence -- rules. (1) (a) ~~Beginning July 1, 2006, when~~ When a court orders the office to assign counsel, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately notify the court so that the court's order may be rescinded.

(c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court's order requiring the assignment is rescinded.

(d) Any determination pursuant to this section is subject to the review and approval of the court.

(2) (a) An applicant who is eligible for a public defender only because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, as defined in ~~45-30-171~~ [section 1], is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are

1 insufficient to retain competent private counsel without substantial hardship to the applicant or the members of
2 the applicant's household.

3 (4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or
4 solely because the applicant is employed.

5 (5) A determination may be modified by the office or the court if additional information becomes available
6 or if the applicant's financial circumstances change.

7 (6) The commission shall establish procedures and adopt rules to implement this section. Commission
8 procedures and rules:

9 (a) must ensure that the eligibility determination process is fair and consistent statewide;

10 (b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from
11 the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the
12 members of the applicant's household;

13 (c) may provide for the use of other public or private agencies or contractors to conduct eligibility
14 screening under this section;

15 (d) must avoid unnecessary duplication of processes; and

16 (e) must prohibit individual public defenders from performing eligibility screening pursuant to this section."
17

18 **Section 14.** Section 53-4-1103, MCA, is amended to read:

19 **"53-4-1103. Definitions.** For purposes of this part, the following definitions apply:

20 (1) "Comprehensive" means health insurance having benefits at least as extensive as those provided
21 under the children's health insurance program.

22 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

23 (3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including
24 children already enrolled in the programs described in 53-4-1104(2).

25 (4) (a) "Enrollment partner" means an organization or individual approved by the department to assist
26 in enrolling eligible children in the plan.

27 (b) An enrollment partner may be but is not limited to:

28 (i) a licensed health care provider;

29 (ii) a school;

30 (iii) a community-based organization; or

(iv) a government agency.

(5) "Health coverage" means a program administered by the department or a disability insurance plan, referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

(6) "Income" has the meaning provided in ~~15-30-171(9)(a)~~ [section 1].

(7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

(8) "Premium" means the amount of money charged to provide coverage under a public or private health coverage plan.

(9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

Section 15. Section 53-6-1001, MCA, is amended to read:

"53-6-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file.

(2) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(3) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

(4) "Gross household income" has the meaning provided in ~~15-30-171~~ [section 1].

(5) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

(6) "Participating retail pharmacy" means a retail pharmacy located in this state or another business licensed to dispense prescription drugs in this state that is medicaid-approved.

(7) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

(8) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

NEW SECTION. **Section 16. Repealer.** Sections 15-6-191, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, and 15-30-179, MCA, are repealed.

NEW SECTION. **Section 17. Codification instruction.** [Section 1] is intended to be codified as an

1 integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

2

3 NEW SECTION. **Section 18. Effective date.** [This act] is effective on passage and approval.

4

5 NEW SECTION. **Section 19. Retroactive applicability.** [This act] applies retroactively, within the
6 meaning of 1-2-109, to tax years beginning after December 31, 2008.

7

- END -